RECORD AND BRIEF

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IN THE

Supreme Court of the United States

STATES OF OHIO, CONNECTICUT, IDAHO, ILLINOIS, IOWA, MARYLAND, MICHIGAN, MONTANA, RHODE ISLAND, UTAH, AND VERMONT,

Petitioners,

v.

AMERICAN EXPRESS COMPANY, AND AMERICAN EXPRESS TRAVEL RELATED SERVICES COMPANY, INC.,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

BRIEF FOR UNITED STATES PUBLIC INTEREST RESEARCH GROUP EDUCATION FUND, INC. AS *AMICUS CURIAE* IN SUPPORT OF PETITIONERS

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INTEREST OF *AMICUS CURIAE*

Amicus curiae is a leading consumer advocacy group with broad knowledge about the history of credit cards and is particularly well qualified to assist the Court in understanding how the public interest, and consumer interests in particular, are undermined by merchant restraints like the one at issue here.[1]

United States Public Interest Research Group Education Fund, Inc. ("U.S. PIRG Education Fund") is a 501(c)(3) independent, non-partisan organization that works on behalf of consumers and the public interest. Through research, public education, and outreach, it serves as a counterweight to the influence of powerful special interests that threaten the public's health, safety, or well-being. U.S. PIRG Education Fund participates as *amicus curiae* in cases that will have a substantial impact on consumers and the public interest, such as this one. U.S. PIRG Education Fund has long advocated on the issue of swipe fee reform. U.S. PIRG believes that cash customers should not pay more to subsidize credit card reward programs and supports efforts to make the costs of credit transparent to consumers.

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1 Counsel for *amicus* provided counsel for the parties timely notice of intent to file this brief, and the parties have filed blanket consents. No counsel for a party authored this brief in whole or in part, and no counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than *amicus curiae*, its members, or its counsel made a monetary contribution to its preparation or submission.

INTRODUCTION AND SUMMARY OF ARGUMENT

Since the 1960s, American consumers have increasingly relied on credit cards to purchase goods and services, to the point that around three-quarters of American households now own at least one credit card. Despite this explosion in usage, exceedingly few consumers are aware that different credit cards cost merchants different amounts to process — fees range between 1-4% per transaction — and that these hidden fees result in higher retail prices to *all* consumers as well as massive subsidies from lower-cost credit card users to higher-cost credit card users. This ignorance is by design. Most notably, American Express uses non-discrimination provisions to *contractually bar* merchants from charging consumers different prices for lower-cost credit cards at the point of sale, thus vitiating competition in the market for credit card network services. Buttressed by the lack of interbrand competition, credit card companies charge merchants supra-competitive fees, with American Express cards carrying the highest fees. Merchants then pass along these fees to their customers as *universally* higher prices, thereby shielding high-cost credit card users from internalizing the true cost of their payment method. All of this results in more credit card use (and heftier American Express profits) than an efficient market would afford.

In acknowledgement of the obvious anti-competitive and anti-consumer consequences of such contracts, federal and state authorities sued Visa, Mastercard, and American Express, in 2010. Visa and Mastercard settled. Following a seven-week bench trial, the District Court issued a thorough 150-page opinion, which found American

Express liable under the Sherman Act and accordingly ordered injunctive relief. The Second Circuit reversed, relying on an ostensibly "pro-consumer" understanding of the benefits wrought by American Express's competition-choking contracts.

This Court should grant the States' petition for certiorari and reverse the lower court for the following two reasons:

First, this case concerns anti-competitive behavior in one of the most important markets for everyday American consumers. If American Express's merchant restraints are found acceptable under the Sherman Act, which they are not, consumers will collectively pay *billions of dollars* in inflated retail prices and unfair cross subsidies, and will be shielded from essential information about a product that they use on a daily (if not hourly) basis.

Second, the Second Circuit decision runs roughshod over the fundamental antitrust principles of competition and consumer welfare. In its ruling, the Second Circuit elevated the narrow benefits received *by American Express cardholders* over the widespread costs borne by *all other credit card users* (not to mention poorer, card-less consumers) as a result of American Express's desire to retain its supra-competitive merchant fee profits and welfare-reducing business model. Moreover, the Second Circuit mistakenly viewed the growth in credit card usage as a sign of consumer satisfaction with the industry when, in fact, growth in credit card usage stems in large part from anti-competitive subsidies like the contracts at issue here. This Court should intervene to set lower courts straight on the principles of antitrust law and to foreclose

American Express's merchant restraints, which have no place in a free market system.

ARGUMENT

I. THIS CASE PRESENTS A QUESTION OF PROFOUND ECONOMIC SIGNIFICANCE FOR AMERICAN CONSUMERS

Although this case directly concerns American Express's anti-competitive contracts in the credit card network services market — a market in which merchants are the primary consumers — the economic reality is that ordinary American consumers are harmed by these contracts, too. Put simply, American Express's merchant restraints result in merchants paying supra-competitive prices not just to American Express but to all credit card companies, which in turn results in consumers paying higher retail prices *and* in consumers making decisions about a fundamental economic question (*i.e.*, how should I pay for this good or service?) behind a contractually-induced veil of ignorance. Given the profound economic stakes of the Second Circuit's decision for ordinary Americans, this Court should have the final word.[2]

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2 This is not to say that the relevant market for *antitrust purposes* is both the cardholder and merchant services markets. As explained in the States' Petition, the relevant antitrust market is solely the latter. *See* Pet'rs Br. 18-24. However, the point remains that a reduction in competition in the merchant services market results in harm to consumers *on top of* supra-competitive merchant prices.

A. Merchant Restraints Force Merchants to Recoup Supra-Competitive Credit Card Prices by Raising Sticker Prices for All Consumers, Resulting in Uneconomical Cross-Subsidization

Credit cards (and credit card debt) are growing in America. Over 75 percent of American families own at least one credit card[3] and the average credit-card debt per household is approximately $6,184[4]; in 2016, Americans purchased around $3.3 trillion worth of goods with their credit cards,[5] and total credit card debt reached almost $780 billion.[6]

Unknown to consumers, though, the amount of fees that merchants pay to credit card companies each year for the right to accept credit cards is staggering: almost $70 *billion* in 2016 alone, a number that accounted for 80

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3 *See* Neil J. Sobol, *Protecting Consumers from Zombie-Debt Collectors*, 44 N.M. L. Rev. 327, 333-34 (2014) (discussing growth of consumer debt).

4 The average credit card debt per *indebted* household is even higher: $16,747 per household, a number that is almost the same as it was before the Great Recession. *See* Erin El Issa, *2016 American Household Credit Card Debt Study*, Nerdwallet (Dec. 14, 2016), *available at* https://www.nerdwallet.com/blog/average-credit-card-debt-household/.

5 *See* U.S. Merchants Paid $88.39 Billion in Card Fees in 2016, Nilson Rep. (HSN Consultants, Inc., Carpinteria, Cal.), May 2017, *available at* https://www.nilsonreport.com/upload/pdf/U.S._Merchants_Paid_88.39_Billion_in_Card_Fees_in_2016_The_Nilson_Report.pdf.

6 Nerdwallet, *supra* note 4.

percent of electronic payment fees despite the fact that credit cards only accounted for 56 percent of electronic spending.[7] While economic theory suggests that merchants, especially large merchants, could negotiate to reduce these fees through price discrimination, negotiation, or exit, merchant restraints, like those at issue here, largely prevent merchants from doing so. Instead, merchant swipe fees grow without regard to competitive pressures.[8] American Express offers a case in point. The District Court found that "American Express repeatedly and profitably raised its discount rates to millions of merchants across the United States . . . without losing a single large merchant" and almost no small merchants, despite the fact that American Express's own surveys "indicate that Amex-accepting merchants do not believe they receive commensurate value from the network in return for its higher discount rates." *United States v. American Exp. Co.*, 88 F. Supp. 3d 143, 195, 201 (E.D.N.Y. 2015).

Merchants have passed along these supra-competitive fees to consumers in the form of *universally* heightened retail prices; the wealthy American Express Platinum Card holder and the poor EBT user pay the same inflated price for their groceries, despite the fact that the American Express card charges the merchant up to an additional 3.5

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7 *Id.*

8 *See, e.g.*, Adam J. Levitin, *Priceless? The Economic Costs of Credit Card Merchant Restraints*, 55 UCLA L. Rev. 1321, 1345 (2008) (finding that merchant discount rates "increased 23 percent from 2000 to 2006" and that "merchants' absolute cost of accepting payment cards has increased by 139 percent over the same time period").

percentage points to accept.[9] While it is difficult to know exactly what degree of the $70 billion in annual swipe fees goes into higher retail prices, it is undisputed that the fees have raised prices. *See American Exp.*, 88 F. Supp. 3d at 216 (crediting expert testimony and merchant testimony to this effect).[10]

This state of affairs results in high-cost, high-reward credit card users being subsidized by low-cost credit card users and, to a greater extent, debit card and cash-based consumers. One study by the Federal Reserve Bank of Boston found that, "on average, each cash buyer pays $149 to card users and each card buyer receives $1,133 from cash users" in annual cross subsidies.[11] The study also noted the inequality of this subsidization, as only about 40 percent of the lowest-income quintile of Americans owns a credit card, versus 97 percent of households earning over $120,000 per year.[12] Moreover, even if a low-income

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9 See Samuel J. Merchant, Merchant Restraints: Credit-Card-Transaction Surcharging and Interchange-Fee Regulation the Wake of Landmark Industry Changes, 68 OKLA. L. REV. 327, 337-38 (2016) (citing American Express's merchant guidelines).

10 *See also* Alan S. Frankel & Allan A. Shampine, *The Economic Effects of Interchange Fees*, 73 ANTITRUST L.J. 627, 671-72 (2006) (arguing that card acceptance fees "significantly and arbitrarily raise[] prices" and distort competition by "steering consumers toward using more costly and less efficient payment methods").

11 *See* Scott Schuh et al., Federal Reserve Bank of Boston, *Who Gains and Who Loses from Credit Card Payments?* 3 (2010), *available at* https://www.bostonfed.org/economic/ppdp/2010/ppdp1003.pdf.

12 *Id.* at 8; *see also* Levitin, *supra* note 8, at 1356 (further detailing the regressive nature of this cross-subsidy).

person owns a credit card, he or she receives far less of this pro-credit card subsidy, as "by far, the bulk of the transfer gap is enjoyed by high-income credit card buyers."[13] For instance, in absolute terms, the estimated transfer is about $1.4 billion to $1.9 billion from poorer, non-rewards card users to wealthier, rewards card users on gasoline and grocery purchases alone.[14] This analysis is likely doubly true for American Express, whose cards are more expensive for merchants and whose cardholders are 21 percent wealthier than the average American. *See American Exp.*, 88 F. Supp. 3d at 200 n.32 (crediting testimony about American Express's "more affluent cardholders").[15]

Had the Second Circuit upheld the District Court's well-reasoned 10-year bar on American Express's merchant restraints, American consumers would have eventually reaped the rewards of lower merchant fees, namely lower retail prices and diminished cross-subsidization. Indeed, the District Court concluded as much after hearing from a plethora of witnesses at trial. *Id.* at 221 ("the court expects that merchants will pass along some amount of the savings associated with declining swipe fees to their customers in the form of lower retail prices"). Moreover, experience in the U.S. debit card markets demonstrates that lower merchant fees — the

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13 Schuh, *supra* note 11, at 21.

14 See id. at 3 (citing Efraim Berkovich, Card Rewards and Cross-Subsidization in the Gasoline and Grocery Markets, REV. NETWORK ECON. 11.4 (2012)).

15 *See also* NILSON REP., *supra* note 5 (showing that, on average, American Express's merchant fees are higher than Visa, Mastercard, or Discover's merchant fees).

logical result of open competition in the network services market — lead to lower retail prices.[16]

Without this Court's intervention, however, these supra-competitive merchant fees will remain in place, as will the heightened retail prices and unjust cross-subsidization that they engender; these consequences impact virtually every person in the country.

B. Merchant Restraints Result in Ordinary Consumers Making Distorted Decisions About Their Choice of Payment Method

In addition to hitting hundreds of millions of Americans' pocketbooks each day, the conduct at issue in this case causes distortions to commonplace spending decisions. Visit any store in America and you will see merchants using price differences to produce efficiency-enhancing, mutually-beneficial transactions. For instance, when a clothing store receives a special promotion of lower-priced jeans from Levis, they might pass along those savings to customers in the form of a "10% Levis sale" (to the chagrin of Wrangler).

Yet, because of American Express's merchant restraints, the routine act of using mutually-beneficial

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16 *See* Merchant, *supra* note 9, at 376 ("A 2013 study by economist Robert Shapiro found that debit-card-interchange-fee regulation under the Durbin Amendment [to the 2010 Dodd-Frank Act] 'saved consumers and merchants an estimated $8.5 billion in 2012,' with $5.87 billion, or around 70%, passed along to consumers in lower prices.") (citing Robert J. Shapiro, *The Costs and Benefits of Half a Loaf: The Economic Effects of Recent Regulation of Debit Card Interchange Fees*, NAT'L RETAIL FED'N (Oct. 2013), at 2).

price differences is barred with respect to the most fundamental of consumer decisions: choice of payment. If Discover offers a grocer a discounted swipe fee, for example, one would think it reasonable that the grocer offer customers a small discount if they use a Discover card (to the chagrin of American Express). Not so. American Express's merchant restraints block merchants from stating *any* kind of preference about credit card use or offering *any* kind of price difference at the point of sale — even if the merchant never mentions American Express by name. *See American Exp.*, 88 F. Supp. 3d at 165 (gathering examples of the kinds of steering prohibited by merchant restraints, including, *inter alia*, "posting a sign saying 'We Prefer Discover'" or "informing customers that it costs more for the merchant to accept American Express than it does other card brands, even if the statement is true").[17] If consumers were afforded the opportunity to align their credit card use with the merchant's credit card fees, the result would be a freer and more competitive market than the one that exists now. Yet, under the status quo, and by design of American Express, the consumer thinks solely of rewards and benefits when they reach for their high-cost Platinum Card, leaving the true cost of those rewards for the rest of the market to bear while foregoing rewards and benefits at the point of sale that the consumer might find more desirable.

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17 While the Durbin Amendment to the Dodd-Frank Act barred merchant restraints with respect to cash, check, or ACH transfers – all of which are cheaper to process than credit cards – that does not change the fact that different credit cards cost different amounts to process. Shielding customers from those differing costs effectively bans lower-cost credit cards and raises across-the-board retail prices.

There is no good reason, technological or otherwise, that merchants could not offer their customers using credit cards mutually-beneficial alternatives to American Express's rewards. Indeed, the District Court heard testimony from multiple merchants stating that they would offer such price differentials but for American Express's merchant restraints, and from Discover executives saying that they would compete on lower fees but for American Express's merchant restraints. *See id.* at 219 (citing merchant testimony from, *inter alia*, Home Depot); 220 (Discover COO stating that "his network would 'aggressively pursue a strategy of lowering [its] prices' were merchants permitted to steer transactions to Discover").[18] Until merchant restraints are removed, though, consumers will continue to act behind a contractually-induced veil of ignorance, which harms their freedom of choice in addition to their pocketbooks.

American Express's anti-competitive behavior accordingly merits this Court's consideration, as it is raising prices and distorting economic decision making for ordinary Americans on a daily basis. *Cf. Expressions Hair Design v. Schneiderman*, 137 S. Ct. 1144 (2017) (considering the related problem of no-surcharge laws in the consumer purchase market).

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18 Ironically, the District Court noted, American Express uses price differentials in its own travel agency business, where it rewards certain vendors with "increased travel volume in return for offering a lower rate or entering into a 'preferred supplier' relationship with Amex." *Id.* at 218.

II. THE SECOND CIRCUIT'S ELEVATION OF AMERICAN EXPRESS'S INTERESTS OVER CONSUMER WELFARE RUNS AFOUL OF THE PURPOSES OF ANTITRUST LAW AND REQUIRES REVERSAL

In its decision, the Second Circuit chided the District Court for "elevat[ing] the interests of merchants above those of cardholders," but yet pointed primarily to increased rewards for *American Express cardholders* as evidence of "overall consumer satisfaction" with American Express's attempt to preclude competition *across the whole network services market*. *United States v. Am. Exp. Co.*, 838 F.3d 179, 204, 206 (2d Cir. 2016). This argument ignores *factual conclusions* reached by the District Court about actual anti-competitive effects of the merchant restraints, *i.e.*, heightened retail prices and uneconomical subsidization of high-end credit card users. Similarly, the Second Circuit erroneously treated increased credit card usage as evidence of a thriving competitive market. This conclusion disregards the "dysfunction[al]" nature of the credit card industry as well as the harms of excessive credit card growth. *American Exp. Co.*, 88 F. Supp. 3d at 210. In both cases, the Second Circuit placed American Express's desire to maintain its business model, which would not be as profitable in a truly competitive market, over consumer interests. The lower court's decision thus lies in direct contradiction to this Court's emphasis on the Sherman Act as a "consumer welfare prescription," and accordingly merits review. *Nat'l Collegiate Athletics Ass'n v. Bd. of Regents of the Univ. of Okla.*, 468 U.S. 85, 107 (1984).

A. Rewards to American Express Cardholders Do Not Outweigh the Anti-Competitive Effects of American Express's Merchant Restraints on the Rest of Consumers

The thrust of the Second Circuit's decision is that, unless the Government could affirmatively prove that supra-competitive merchant fees outweighed the American Express cardholder rewards that those fees may fund, the Government could not show that the merchant restraints diminished overall consumer welfare. For the reasons stated in Petitioner's brief, this conclusion relies on a mistaken understanding of the relevant market and flips the rule of reason's burden-shifting test on its head. *See* Pet'rs Br. 19-25.[19]

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19 Petitioners are not the only ones to reach that conclusion. The most recent supplement to Philip E. Areeda and Herbert Hovenkamp's seminal treatise on antitrust law described the Second Circuit's burden-shifting as "troubling," noting that "the proper scope of a prima facie case [under the rule of reason] would be for the plaintiff to show that Amex's anti-steering rules had the competitively harmful impact of blunting merchant acceptance competition as between cards with higher and lower merchant acceptance rates" with the burden *then* shifting to Amex to "explain why [their rules] are profitable and in consumers' best interests." 7 Philip E. Areeda & Herbert Hovenkamp, Antitrust Law ¶ 1505 (4th ed. 2017).

Hovenkamp also wrote that the Second Circuit "*incorrectly conclude[ed]* that the 'relevant market' in which to consider American Express's anti-steering rules was not limited to the market for network services but also included consumers." 2B *id.* ¶ 565 (emphasis added).

What's more, though, the Second Circuit's reasoning relies on a bafflingly narrow understanding of consumer welfare. That is, the Second Circuit treated the merchant restraints under a bifurcated cost-benefit analysis, with the victimized American Express merchants on the one hand and the beneficiary American Express cardholders on the other hand. In reality, though, and as the District Court detailed, the victims of American Express's anti-competitive acts include (i) merchants, *and* (ii) credit card users whose cards cost merchants less than American Express's (*i.e.*, the vast majority of other credit card users), *and* (iii) cash, check, or debit card users. All of these parties are subject to higher retail prices at the store and yet "do not receive any of the premium rewards or other benefits conferred by American Express on the cardholder sides of its platform." *American Exp.*, 88 F. Supp. 3d at 216. The Second Circuit's placement of American Express's interests over these other interests does not comport with an antitrust law premised on open competition and consumer welfare.

The best evidence of the Second Circuit's myopia comes from the widespread anti-competitive effects found as *matters of fact* by the District Court. Besides finding that the merchant restraints allowed American Express to raise prices to merchants beyond what was necessary to fund their rewards program, *see id.* at 215-16 (crediting expert testimony that less than half of American Express's fees flowed directly to its cardholders), the District Court determined that "the [merchant restraints] have also resulted in increased prices for consumers," *id.* at 216. Importantly, the District Court noted that "higher retail prices affect not only those customers who use American Express cards, but also shoppers who instead prefer

to pay using a lower-rewards GPCC card, debit card, check, or cash," and that this externality constituted an "anticompetitive effect" of American Express's merchant restraints. *Id.* at 216-17; *see also id.* (further describing the highly regressive nature of this cross-subsidization, all for the benefit of American Express's "relatively small, affluent cardholder base"). The District Court's factual conclusions cohere with academic research finding that inflated merchant fees, which are partially wrought by merchant restraints, harm consumers more than they help them.[20]

Amazingly, though, the Second Circuit relegated the District Court's finding concerning heightened across-the-board retail prices to a dismissive footnote, *Am. Exp. Co.*, 838 F.3d at 204 n.52, and otherwise ignored the District Court's findings with respect to cross-subsidization and the rest of the consumer market. This utter failure to acknowledge anti-competitive effects on consumers beyond American Express cardholders showcases a narrow view of antitrust law that is in sore need of this Court's steadying hand.[21]

B. Growth in the Credit Card Industry Is Not Necessarily Evidence of a Healthy, Competitive Payment Market

Besides understating the anti-competitive harms to consumers beyond American Express cardholders, the Second Circuit placed a misguided faith in increased

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20 *See, e.g.*, Levitin, *supra* note 8; Frankel & Shampine, *supra* note 10.

21 *See also, supra*, I note 19.

credit card output as evidence of a "thriving market" with "increased competition." *Am. Exp. Co.*, 838 F.3d at 206. Yet, as Professor Adam Levitin has described in great detail, credit cards have grown, in part, *precisely because of the anti-competitive merchant restraints at issue here.* Because merchant restraints "prevent merchants from signaling to consumers the costs of different payment methods . . . [,] consumers never internalize the costs of their choice of payment system."[22] Ergo, "by making credit cards appear relatively cheaper to other payment systems, merchant restraints encourage higher usage of credit cards than would otherwise occur."[23] In other words, anti-competitive behavior distorts the market in favor of credit cards, particularly high-cost American Express reward cards.

Under the circumstances, then, increased credit card output should not inherently be understood as natural, consumer-driven market growth. This distinction matters in antitrust law, as growth in one market (*i.e.*, credit cardholders) cannot be justified by American Express's unilateral decision to preclude competition and distort prices in another market (*i.e.*, merchants purchasing the right to process credit cards). *See Nat'l Soc'y of Prof'l Eng'rs v. United States*, 435 U.S. 679, 695 (1978) (rejecting a practice that "prevent[ed] customers from making price comparisons" for public safety reasons, as it inappropriately "impos[ed] [one group's] views of the costs and benefits of competition on the entire marketplace").[24]

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22 Levitin, *supra* note 8, at 1404-05.

23 *Id.* at 1356.

24 *See also* 2B Areeda & Hovenkamp, *supra* note 19, ¶ 562e

As a final note, it bears emphasizing the social harms caused by excessive credit card growth, which the merchant restraints at issue here help fuel and which the Second Circuit would have done well to acknowledge. It is clear to most that, for all the benefits of credit cards, an outsized reliance on the product has led to "decreased consumer purchasing power caused by increased debt service; [ ] decreased consumer purchasing power caused by inflation; and [an] increased rate of consumer bankruptcy filings."[25] Indeed, credit card companies rely on consumers' cognitive biases to market "cheap" cards, only to profit off consumers who fall into deeper debt than they expected.[26] Far from being an academic concern, America's political leaders have expressed consternation about America's credit card use as well.[27] Given this

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(noting that the Second Circuit "failed to see . . . that under antitrust policy *competition* should choose the optimal mix of revenue as between the two sides, an issue obfuscated by the incorrect finding that these two elements of revenue were within the same antitrust market. By preventing merchants from offering product discounts in exchange for using a card with a lower merchant fee, Amex was preventing consumers from making this comparison.") (emphasis in original) (citing *NCAA v. Board of Regents*, 468 U.S. 85 (1984)).

25 Adam J. Levitin, *Priceless? The Social Costs of Credit Card Merchant Restraints*, 45 HARV. J. ON LEGIS. 1, 43 (2008); *see also* Oren Bar-Gill, *Seduction by Plastic*, 98 NW. U. L. REV. 1373, 1377 (2004) (noting that "the long-term costs [of credit card use] outweigh any short-term benefit, because the long-term costs hit the consumer when she is most vulnerable, when financial distress forces her to borrow").

26 *See generally* Bar-Grill, *supra* note 22.

27 *See, e.g.*, H.R. Rep. No. 111-88, at 10 (2009), *reprinted in* 2009 U.S.C.C.A.N. 453, 454 ("The accumulation of large amounts

situation, and the fact that credit card debt is nearing levels not seen since the eve of the Great Recession,[28] it seems that anti-competitive behavior resulting in overuse of such a risky product is of particular moment to our antitrust laws.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted.

Dated: July 6, 2017

Respectfully submitted,

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of credit card debt can have profound implications on individual consumers and the economy more generally.") (CARD Act legislative history).

28 *See supra* note 4 and accompanying text.